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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,513	07/25/2003	L. Harrison Bernbaum	29864/37994A	3248
4743	7590	11/30/2005		
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			EXAMINER ELKINS, GARY E	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/627,513	BERNBAUM ET AL.	
	Examiner	Art Unit	
	Gary E. Elkins	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20031105</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 5 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5 and 11 are unclear with respect to how a plurality of waist belt hinges are formed by a single line of stitching, i.e. as shown and described, it would appear that more than one line of stitching is being disclosed to form the plurality of hinges.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 5, 6, 9-12, 16, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Godshaw et al '012 (fig. 4 emb). Godshaw et al '012 discloses a case including a flap 118, shoulder straps 126, 128, waist belt 150, 152, 154, wheels 94 and telescoping handle 98. The waist belt is formed from a plurality of sections 150, 152, 154, 154 which include foldable hinges where they are sewed to the flap 118. Also, it is noted that, since the waist belt is flexible and can be folded at any point, the waist belt is considered to include an infinite number of hinges insofar as claimed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3, 4, 13-15, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godshaw et al '012 (fig. 4 emb) in view of either Brune or Wulf et al '851. Godshaw et al '012 discloses all structure of the claimed case except extension of the waist belt under a panel section which is secured to the flap. Each of Brune and Wulf et al '851 teaches that it is known to secure a waist belt using a continuous waist belt secured beneath a securing flap. It would have been obvious to attach the waist belt in Godshaw et al '012 using a securement panel as taught by either Brune or Wulf et al '851 to allow movement of the pack along the strap during use and thereby reduce movement of the flap laterally.

6. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 6 and 16 above, and further in view of Scicluna. Modified Godshaw et al '012 does not evidence the flap capable of being secured to a handle on the bottom of the case. Scicluna teaches that it is known to locate the securement area of a side flap on a case at the bottom of the case. It would have been obvious to locate the securement area (160) in Godshaw et al '012 at the bottom of the case as taught by Scicluna to shorten the securing flap in Godshaw et al '012 and thereby provide less chance of snagging or interference with the strap. It is noted that no distinction is seen between the attachment portion connected to the case opposite the flap

and the handle as claimed since the attachment portion can be used to grasp or handle the connection during use.

7. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 7 and 17 above, and further in view of Jones et al. Modified Godshaw et al '012 evidences all structure of the claimed container except the use of a hook and loop closure to connect the flap. Jones et al teaches that it is known to secure a strap using a ring and a hook and loop closure on the end of the strap. It would have been obvious to substitute a hook and loop connector for the snap connector of Godsahw et al '012 as taught by Jones et al as a mere selection of one well known and used connector for another.

Conclusion

The remaining cited prior art is illustrative of the general state of the art.

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

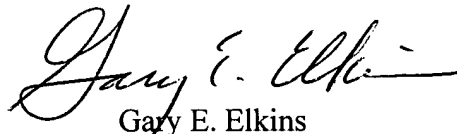
Information regarding the status of an application may be obtained form the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the

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PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday through Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.


Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
27 November 2005